

Exhibit B

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

Mohamed John Sohel Akhtar and
La Buca Restaurant, Inc. d/b/a
Swing 46 Jazz and Supper Club,

Plaintiffs,

v.

Eric Adams, Mayor of the City of
New York, Rohit T. Aggarwala, New
York City Department of
Environmental Protection, Eric I.
Eisenberg, and John and Jane
Does One through Thirty,

Defendants.

Case No. 23-cv-06585 (JGLC)(VF)

Declaration of Mohammed John Sohel Aktar

I, Mohammed John Sohel Aktar, of full age, declare and affirms,
under the penalty of perjury, to the truth of the following:

1. I am a resident of the City of New York and owner/operator of La
Buca Restaurant, Inc., d/b/a Swing 46 Jazz and Supper Club, hereinafter
"Swing 46").

2. I make this statement in support of my "Response in Opposition" to
defendant Eric M. Eisenberg, "defendant Eisenberg's," Notice of Motion,
dated April 3, 2025, to dismiss my Amended Complaint.

3. I have been the owner and general manager of Swing 46, located

at 349 West 46th Street, New York, New York for over twenty-five years.

4. Before I operated the club, I emigrated from Bangladesh and became a United States citizen. I am what is commonly referred as a person of color, along with being a Muslim. I am what might be referred to as a minority within a minority group.

5. I am neither ashamed of my national origin, nor my religion. I am proud to be a United States citizen and a resident of New York. I am grateful for the opportunities I have benefited from while living in my community. I, in turn, try to provide the community with a art form that includes singing, jazz music with live musicians, and swing dance, what had almost become a dying art form. Over the years I have worked very hard at preserving this form of entertainment.

6. Swing 46 is located in what is known as "Restaurant Row." I am very pleased to serve both local customers and tourists with entertainment. The club also provides work for musicians, singers, and dancers, along with staff that are engaged in duties ranging from janitorial to chefs.

7. The community in which I work and reside has always been very welcoming to me. I have never had problems with neither my neighbors nor patrons. I never suffered from harassment of any kind in all the years I have been in business, but that changed in about 2021.

8. Starting in 2021, continuing through late 2023, I began to notice an individual hanging around outside of my club. He would not come into the club, but just walk back and forth, often staring at club patrons that were dining on the patio. He is a white male, with brown close cropped hair, casually dressed, he often wore a mask, and sometimes a cap. He appeared to be 5'6" to about 5'8". With his demeanor and attire he looked out-of-place, and acted strangely by standing there and staring at patrons and staff. I was to learn his name is Eric M. Eisenberg, the defendant herein.

9. I have been told by the Swing 46 staff that that defendant Eisenberg was coming onto the front patio and place what appeared to be a cell phone directly against a speaker. The patio is private property reserved for patrons and staff. Swing 46 provides live entertainment, and the music is transmitted by speaker for the benefit of patrons dining on the patio. He had been told numerous times to leave but he continued to return and trespass upon the property.

10. A member of the staff, Michelle Collier, has observed defendant Eisenberg coming onto the patio. In one instance she observed defendant Eisenberg lean over a table where a group of young women were having

dinner. When they told him to get away from them, he screamed something nasty at them before walking off.

11. After learning from my staff that this individual, that is, defendant Eisenberg was hanging around and causing problems, I kept a lookout for him. I, along with members of my staff, have had at least ten personal encounters with defendant Eisenberg trespassing upon my business. He has been told repeatedly to stay away, but he persisted in returning. I have observed him on the patio placing what appears to be a cell phone against the outdoor patio speakers. After these encounters I was to learn that he been filing noise complaints against my business.

12. When I would catch defendant Eisenberg trespassing, I would immediately direct him to leave. He would become rude and nasty towards me. I was taken aback by his behavior because I did not know this man, and the only encounters I had with him was when he come onto, or hang about, the property. Other than the defendant Eisenberg, neither myself, nor my staff, have encountered anyone else behaving in a similar fashion.

13. I have never gone to the residence of defendant Eisenberg, but yet he has persistent in coming to where I reside and maintain my business to create problems. Ultimately I came to believe defendant Eisenberg wants me out of the neighborhood. I have no other understanding why he

would come after me by harassing my patrons and staff, and causing problems for my business. In addition to his disruptive behavior, there are financial consequences resulting fraudulent noise complaints he has filed against me. Every day I worry about my business, and has affect my health and well being.

14. Upon information and belief, defendant Eisenberg gets a share of the fine money that is imposed against me. I have attempted to fight these cases, but to no avail. In my view the system is rigged to benefit the City of New York and the person writing the noise complaints. I have been denied access to documents that allow me to defend myself. When I sought adjournments for additional time to prepare a defense, I was told they would be granted, then only to learn that defaults were entered against me.

15. I am one of very few minority business owners that is a person of color; nor do I know of any other Muslims that operate a restaurant in the area. None of my neighbors have complained to me over the music, which comes from live performers. We are providing not only live entertainment, but also preserving a tradition that goes back to the early days of the New York City jazz and swing dance scene. I cannot understand why someone would want to destroy this, and I sincerely believe it is because of my race

and religious beliefs I have been purposely targeted. There is no logical explanation as to why I would be subjected to this amount of harassment and discriminatory behavior.

I, Mohammed John Sohel Akhtar, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: April 25, 2025



Mohammed "John" Sohel Aktar
Personally and as Owner of of La Buca
Restaurant, Corp. d/b/a Swing 46 Jazz
and Supper Club.